IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Crl.MC.No. 2134 of 2007()

CC.269/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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PETITIONER: ACCUSED

MARY JOHN, W/O. A.F.JOHN, AGED 45 YEARS,
ARIMPUR HOUSE, EMMEL COLONY,
KUNNATHURMEDU, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/07/2007, A/W. CRMC 2135 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.Nos. 2134 & 2135 of 2007

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Dated this the 4th day of July, 2007

O R D E R

The petitioner, a woman, faces indictment in two different prosecutions, both under Section 138 of the N.I. Act and both initiated by the same complainant/respondent herein. Cognizance has been taken. The petitioner did not appear before the learned Magistrate in either case. Consequently she finds herself in the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing the petitioner and it is in these circumstances that the petitioner has come to this Court with this petition under Section 482 Cr.P.C. According to the petitioner her absence was not willful and she had no knowledge of the proceedings earlier.

2. The learned counsel for the petitioner submits that the petitioner is willing to appear before the learned Magistrate. But she apprehends that her application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when she surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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